

BEFORE THE BOARD OF LAND COMMISSIONERS AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
amendment of ARM 36.25.801, ARM,)	ON PROPOSED AMENDMENT
36.25.804, ARM 36.25.805, ARM)	AND REPEAL
36.25.807, ARM 36.25.808, ARM)	
36.25.810, ARM 36.25.811, ARM,)	
36.25.812, ARM 36.25.813, ARM)	
36.25.815, and the proposed repeal of)	
ARM 36.25.806 regarding the land)	
banking program)	

To: All Concerned Persons

1. On March 7, 2008, at 2:00 p.m., the Department of Natural Resources and Conservation will hold a public hearing in Department of Health and Human Services Auditorium, 111 North Sanders, Helena, Montana, to consider the amendment and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 3, 2008, to advise us of the nature of the accommodation that you need. Please contact Emily Cooper, 1625 11th Avenue, Helena, MT 59620; telephone (406) 444-4165; fax (406) 444-2684; or e-mail ecooper@mt.gov.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

36.25.801 DEFINITIONS As used in this subchapter, the following definitions apply, except where the context clearly indicates otherwise:

~~(1) "Annual rate of return" means the annual return divided by the asset value multiplied by 100%.~~

(1) "Accounting period" means the interval of time used to calculate and compare investment decision criteria for various land classes.

(2) and (3) remain the same.

(4) "Average annual rate of return" means the average annual return over the accounting period, divided by the purchase price, and multiplied by 100.

(4) remains the same but is renumbered (5).

~~(5)~~ (6) "Bid bond" means bid deposit, as defined in ~~(6)~~ (7).

~~(6)~~ (7) "Bid deposit" means a certified check or cashier's check drawn on any Montana bank equal to ~~50%~~ 20% of the minimum sales price submitted in connection with a bid as an assurance of the performance of a contractual or promissory requirement.

(7) remains the same but is renumbered (8).

~~(8) "Current annual rate of return" means the average annual return for three years divided by the purchase price and multiplied by 100%.~~

(9) remains the same.

~~(10) "Earnest money" means a sum of money paid by a prospective purchaser as proof of that person's intention to complete the purchase transaction.~~

(10) "Estimated costs" means the estimated costs to prepare the parcel for sale, including but not limited to appraisal fees and archeological surveys.

(11) remains the same.

(12) "Net annual income" means total revenues from all sources less total average expenses from all sources based on all available cost information, including information in the "Report on the Return on Asset Value by Trust and Land Office for State Trust Lands."

(13) "Net present value" means the sum of the discounted net annual income over the accounting period.

(13) remains the same but is renumbered (14).

(15) "Processing costs" means estimated costs of preparing the parcel for sale, including but not limited to appraisals, cultural surveys, environmental review (pursuant to Title 75, chapter 1, parts 1 through 3) and land surveys.

~~(14)~~ (16) "Report on the Return on Asset Value by Trust and Land Office for State Trust Lands" means the annual report produced to analyze the rates of return originating on trust land on land classified as forest, agricultural and grazing, and other.

(15) remains the same but is renumbered (17).

~~(16) "20-year average annual rate of return" means the sum of the annual rates for return for the most recent 20 consecutive years divided by 20.~~

AUTH: 77-1-328, 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: These amendments to the rules are reasonably necessary to conform definitions for the administration of the land banking program according to the provisions of Chapters 396 and 456 of the Laws of Montana, 2007.

36.25.804 PRELIMINARY REVIEW OF PARCELS BEFORE NOMINATION

(1) The department shall conduct a preliminary review of each parcel prior to nomination to determine whether further review is warranted. The department may consider the following factors in the preliminary review:

(1)(a) through (1)(d) remain the same.

(e) the estimated net annual income from the parcel, ~~based on information in the "Report on the Return on Asset Value by Trust and Land Office for State Trust Land";~~

(1)(f) through (2) remain the same.

AUTH: 77-1-204, 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: These amendments to the rules are reasonably necessary to conform definitions for the administration of the land banking program according to the provisions of Chapters 396 and 456 of the Laws of Montana, 2007.

36.25.805 PROCEDURES FOR NOMINATING AND EVALUATING STATE TRUST LANDS FOR SALE PURSUANT TO LAND BANKING

- (1) remains the same.
- (2) The board reserves the right to approve or deny nominations for the sale of state trust land. The department reserves the right to prioritize activities related to the sale of state trust land.
- (3) The board, the department, or the current lessee may nominate a parcel or parcels of state trust land for sale: ;
 - (a) ~~Nominations~~ nominations must be on a form issued by the department and must be sent to the appropriate department office, as noted on the form: ;
 - (b) A a lessee may nominate one or more parcels currently held by that lessee under a state of Montana surface lease agreement. The nominating lessee shall pay a nonrefundable \$100 processing fee for each parcel of land nominated: ;
 - (c) ~~The~~ the department may not accept incomplete nominations: ;
 - (d) ~~The~~ the department shall review the classification of the parcel, as provided in 77-1-401, MCA, and classify the parcel if it is not classified: ; and
 - (e) ~~When~~ when a parcel is nominated, the department shall notify all persons holding a license on the parcel, the representative of the trust beneficiary, and the lessee of the parcel if board or department nominated. Notice to the trust beneficiary must go to the representative identified for each trust affected by the proposed sale.
- (4) If the department determines that a parcel meets the preliminary suitability requirements for sale, the department shall ~~conduct~~ contract for an environmental review of the parcel under MEPA. If the MEPA analysis determines that the sale would result in a significant adverse impact on natural resources, the parcel is generally not suitable for sale unless the board determines otherwise. If the department conducts a checklist environmental assessment under MEPA, the department shall briefly explain in writing ~~each conclusion of "no impact."~~ the potential impacts and mitigations for each resource and issue analyzed, including written explanations of resource or issue analysis conclusions of "no impact."
- (5) After evaluation of the preliminary review and the MEPA analysis, the department shall determine whether a parcel is suitable for sale and report to the board on the parcel's suitability for sale: ;
 - (a) If if the department determines the parcel is not suitable for sale, the department may remove the parcel from nomination and eliminate the parcel from further review without board approval: ;
 - (b) ~~The~~ the department shall post the report required by (4), including the MEPA analysis, in a dated notice on the department's web site or other equivalent electronic medium. The notice must be posted at least 15 days before the ~~next~~ meeting of the board will consider the sale: ;
 - (c) ~~The~~ the department shall notify the lessee of the department's recommendation by certified mail, as provided in 77-2-363(3), MCA. As a courtesy, the department shall try to contact the lessee by telephone about the determination.

The notification must be mailed on or before the day the department posts the notice on its website or other equivalent electronic medium- ;

(d) ~~The~~ the department shall notify all persons holding a license on the parcel and the trust beneficiary about the determination- ;

(e) ~~Any~~ any person may appeal to the board the department's removal of a parcel from nomination within 15 days of the department posting the report on the website or other equivalent electronic medium. The board shall place the appeal on the next available agenda of a regularly scheduled board meeting no later than 15 days before the meeting- ; and

(f) On a board- or department-nominated parcel, the lessee may, within 60 days of the determination, notify the department that the lessee intends to propose a land exchange.

(6) remains the same.

(7) Upon the department's report to the board under (4), the board shall approve or reject the proposed sale- ;

(a) If if the board rejects the proposed sale of the parcel, the department shall remove the parcel from nomination- ; and

(b) If if the board approves the proposed sale of the parcel, the department shall post the parcel on the department's web site or other equivalent electronic medium within 30 days of the board's approval.

(8) If the board has approved a proposed sale nominated by the lessee, the department will estimate the costs of the appraisal and will notify the lessee of the approval and request submission of the estimated costs of the appraisal and associated costs of preparing the parcel for sale. Payment must be made within ten days after the board has given preliminary approval of the sale under ARM 36.25.807(2)(b).

(8) (9) If the board has approved a proposed sale, land exchange, or acquisition, the department shall contract with a Montana-licensed certified general appraiser to appraise the parcel under consideration for sale. The department will review or contract the review of the appraisal conducted by the contract appraiser: shall commission an appraisal from a list of licensed, department-approved appraisers.

(a) ~~The~~ the department shall ~~conduct or~~ contract for the appraisal, to be reimbursed by the appropriate party under ARM 36.25.807(2)(b)- ; ~~or 36.25.808(8)(a).~~

(b) ~~The~~ the appraisal must:

(i) include state-owned improvements in the valuation;

(ii) exclude lessee-owned or licensee-owned improvements from the valuation;

(iii) use comparable sales for like properties; ~~and~~

(iv) include details of the value of the parcel with legal access and a discount in appraised value due to lack of access- ; and

(v) be reviewed and or updated one year from the date of the appraisal.

(c) The department shall post the appraised value of the parcel in a dated notice on the department's web site or other equivalent electronic medium.

~~(9) (10)~~ Any person may commission, at that person's own expense, another appraisal from a list of department approved appraisers- ;

(a) A a person commissioning another appraisal shall notify the department within 15 days of the posting of the appraised value- ;

(b) ~~Any~~ any subsequent appraisal must be completed within 60 days of notification to the department of the intent to commission the appraisal- ; and

(c) ~~Any~~ any subsequent appraisal must include all elements required of the first appraisal and be submitted to the department for review.

~~(10)~~ (11) The department shall present to the board the first appraisal and review and any subsequent appraisals and reviews that are provided to the department.

~~(11)~~ (12) Upon receiving the appraisal(s) and review(s) ~~or appraisals and survey~~, the board shall set a minimum bid on the parcel. The department shall add the minimum bid to the parcel's listing on the department's web site or other equivalent electronic medium.

~~(12)~~ (13) If the board has approved a proposed sale, the department shall make the minimum bid, contents and findings of any title review, and any environmental due-diligence review available to the public, all bidders, and the lessee.

~~(13)~~ (14) The department shall provide notice of the proposed sale to the following persons:

- (a) ~~the~~ Department of Fish, Wildlife and Parks;
- (b) ~~the~~ Department of Transportation;
- (c) ~~the~~ Department of Environmental Quality;
- (d) all adjacent landowners of record;
- (e) the appropriate trust beneficiaries;
- (f) the board of county commissioners in the county where the parcel is located;
- (g) any surface lessees by certified mail. The notice to lessees must include an estimate of costs necessary to complete the sale if the lessees nominated the parcel; and
- ~~(h) any surface lessees by certified mail. The notice to lessees must include an estimate of costs necessary to complete the sale if the lessees nominated the parcel.~~

(h) all persons holding a license on the parcel.

~~(14)~~ (15) If necessary, the department shall conduct a survey of the parcel or parcels proposed for sale. The department shall pay for the survey, to be reimbursed by the appropriate party under ARM 36.25.807(2)(c) or 36.25.808(7)(d).

AUTH: 77-1-204, 77-2-363, 77-2-364, MCA

IMP: 77-2-363, 77-2-364, MCA

REASONABLE NECESSITY: This rule amendment is reasonably necessary because Chapter 456 of the Laws of Montana, 2007, now requires that all parcels under consideration for sale, exchange, or acquisition be appraised by a Montana-certified, licensed appraiser. Section 1 of Chapter 396 of the Laws of Montana, 2007: 1) decreases the number of days prior to auction that bid deposits must be received in order to aid potential bidders in securing loans; 2) authorizes the department to collect funds from prospective purchasers to reimburse the

department for sale preparation costs; and 3) decreases the bid bond amount in order allow more bidders to participate in the bid process.

36.25.807 TERMINATION OF LESSEE-INITIATED LAND BANKING SALE AFTER EARNEST MONEY DEPOSIT AND PROCESSING COSTS PAID BY LESSEE

(1) If the current lessee of the land to be sold has initiated the sale, as authorized by 77-2-361 through 77-2-367, MCA, and ~~deposited earnest money submitted processing costs~~ with the department, the lessee may cancel the sale. The lessee shall send written notice by certified mail to the department, postmarked no later than ~~30~~ ten days before the date of the auction.

(2) If the lessee cancels the sale after the department has given notice of the auction, the lessee shall pay all costs incurred by the department in preparing the sale, including but not limited to:

(a) any costs incurred for preparation of documents required by 75-1-201, et seq., MCA;

(b) appraisal;

(c) survey;

(d) cultural resource inventory;

(e) natural resource inventories;

(f) public hearings; and

(g) other costs that may be incurred by the department and or board.

(3) The ~~earnest money processing costs~~ and bid deposit, as required in ARM 36.25.805(8) and 36.25.808(4), that are paid by the lessee must be applied toward costs incurred by the department for the canceled sale.

(4) Any amount of ~~earnest money processing costs~~ and bid deposit remaining after payment of department costs must be returned to the lessee.

AUTH: 77-2-328, MCA

IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: This rule change is reasonably necessary because Chapter 396 of the Laws of Montana, 2007, now authorizes the department to collect funds from potential purchasers to reimburse the department for sale preparation costs.

36.25.808 PROCEDURE FOR CONDUCTING STATE TRUST LAND SALES

(1) and (2) remain the same.

(3) As required by 77-2-322, MCA, the department shall, at a minimum, publish notice of the auction in a newspaper of general circulation in the county where the auction is to take place, once each week for four consecutive weeks preceding the due date for bid deposits. The department shall post the notice on the department's web site or other equivalent electronic medium and provide links to associated realty web sites when feasible.

(4) A person wishing to bid upon a nominated state trust land parcel offered for sale at auction shall submit a bid deposit and execute a purchase agreement with the department. The bid deposit and purchase agreement must be postmarked no later than ~~45~~ 20 days before the date of the auction.

(5) Subject to (6), land must be sold to the highest bidder who consummates the terms of the sale.

(6) In accordance with 77-2-324, MCA, the current lessee has the preference right to match the high bid.

(7) remains the same.

(8) The department shall retain the bid deposit and processing costs of the successful bidder. The department shall return the bid deposits of all unsuccessful bidders within five business days following the auction.

(9) If the highest bidder fails to consummate the sale for any reason, the bidder forfeits the bid deposit and processing costs. The the department may offer the parcel to the next highest bidder at the final sale price. If the next highest bidder, or a subsequent bidder, in sequence of bid amount, agrees to the terms of the sale, that bidder shall complete a purchase agreement and submit a bid deposit and processing costs to the department. The bid deposit and processing costs will be returned to the highest bidder if a subsequent bidder completes a purchase agreement and submits a bid deposit and processing costs.

(10) If the final bidder who agrees to consummate the sale fails to comply with the terms of the sale for any reason, that bidder's bid deposit is and processing costs are forfeited, and the The bid deposit must be credited to the land banking trust fund, and the The processing costs will be credited to the land banking administration account, after deduction of sale costs incurred by the department if the department has returned their bid deposit.

AUTH: 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: This rule change is reasonably necessary because Chapter 396 of the Laws of Montana, 2007, authorizes the department to collect funds from potential purchasers in order to reimburse the department for sale preparation costs.

36.25.810 FINAL BOARD APPROVAL AND ISSUANCE OF DOCUMENTS OF CONVEYANCE (1) Before issuing documents of conveyance, the department shall present the proposed sale to the board: ;

(a) ~~The~~ the board shall approve or disapprove the sale: ; and

(b) ~~If~~ if the ~~land~~ board disapproves the sale, the successful bidder is not responsible for costs.

(2) For the sale of land acquired from the federal government pursuant to the state's Enabling Act, the board may convey title through a state patent, pursuant to 77-2-341, ~~77-2-342, and through~~ 77-2-343, MCA.

(3) through (6) remain the same.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: The amendments are reasonably necessary to correct grammar and formatting errors.

36.25.811 THE LAND BANKING TRUST FUNDS

(1) The proceeds from a sale of state trust land must be deposited in the land banking trust fund to which the land belonged.

(2) When the board conducts a sale of state trust land pursuant to the land banking program, the board shall distribute the proceeds according to the provisions of 77-1-109, 77-2-337, and 77-2-361, ~~77-2-362, 77-2-363, 77-2-364, 77-2-365, 77-2-366, and through~~ 77-2-367, MCA.

(3) Proceeds from the sale of land from ~~within individual~~ trusts may be pooled to acquire tracts of land to add to state trust land, if approved by the board after consultation with the affected beneficiaries.

(4) If land banking expires in ~~2008~~ 2011, any proceeds remaining in the state trust land bank fund must be expended by the tenth year after the effective date of each sale.

(5) and (6) remain the same.

(7) If land banking is authorized beyond ~~2008~~ 2011, the proceeds in the land banking trust funds must remain intact and available for land banking ~~purposes~~ acquisitions.

AUTH: 77-2-366, MCA

IMP: 77-2-366, MCA

REASONABLE NECESSITY: These rule changes are reasonably necessary because Section 3 of Chapter 396 of the Laws of Montana, 2007, extended the date of the land banking program, and the changes are necessary to correct formatting errors.

36.25.812 NOMINATION OF TRACTS FOR ACQUISITION

(1) remains the same.

(2) Nominations must be on a form issued by the department and must be sent to Land Banking, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601.

(a) ~~Every person nominating land, except the department or the board, shall pay a nonrefundable \$100 fee for each tract of land nominated.~~ The department may not accept incomplete nominations.

(2)(b) through (5) remain the same.

AUTH: 77-2-328, MCA

IMP: 77-2-328, MCA

REASONABLE NECESSITY: These rule changes are reasonably necessary because Chapter 396 of the Laws of Montana, 2007, which authorizes the Department of Natural Resources and Conservation to collect funds for sale preparation costs, makes the collection of a nomination fee obsolete.

36.25.813 PRELIMINARY REVIEW OF TRACTS NOMINATED FOR ACQUISITION (1) The department reserves the right to prioritize activities related to the acquisition of land.

(2) The department shall obtain from the seller and evaluate a disclosure statement that describes any known material defects in the property- ;

(a) ~~The~~ the seller shall provide disclosure on a form provided by the department- ; and

(b) If ~~if~~ the seller fails to provide disclosure within 60 days of the department's request, the tract must be considered unsuitable for acquisition.

(3) through (6) remain the same.

AUTH: 77-1-204, 7-2-308, 77-2-362, MCA

IMP: 77-2-328, MCA

REASONABLE NECESSITY: These rule amendments are reasonably necessary to correct grammar and formatting errors.

36.25.815 ANALYSIS, REVIEW, AND DUE DILIGENCE IN PREPARING TO

ACQUIRE STATE TRUST LAND (1) The department may not purchase a tract, easement, or improvement pursuant to 77-2-361, ~~77-2-362, 77-2-363, 77-2-364, 77-2-365, 77-2-366, and through~~ 77-2-367, MCA, without preparing a financial analysis.

The analysis must include:

(a) the average annual rate of return calculated over a ~~20~~ 60-year accounting period for Class 2 lands;

(b) ~~a 20-year average annual rate of return~~ the average annual rate of return calculated over a 20-year accounting period for Class 1, 3, and 4 lands;

(c) a comparison with the current average annual rate of return of the parcel or parcels sold, the proceeds of which are used to fund this transaction;

(d) a prudent determination that the ~~acquisition is likely to produce more net revenue~~ lands to be acquired have a higher net present value for the affected trust or trusts than the ~~revenue that was produced from the land~~ lands sold, and a greater or equal average annual rate of return as may be reasonably expected over a 20-year accounting period for Class 1, 3, and 4 lands and a 60-year accounting period for Class 2 lands, with an acceptable level of risk for the affected trust or trusts; and

(e) the expected classification of the tract under 77-1-401, MCA.

(2) Before acquiring a tract, easement, or improvement, the board shall determine that the financial risks and benefits of the purchase are prudent, financially productive investments that are consistent with the board's fiduciary duty as a reasonably prudent trustee of a perpetual trust. That duty requires the board to comply with the requirements of 72-34-114 and 77-2-364(3), ~~(4), through~~ (5), MCA.

(3) The department shall prepare a description of each proposed acquisition. The description must include the following elements:

(a) an inventory of:

(i) soils, ;

(ii) vegetation, ;

(iii) wildlife use, ;

(iv) mineral characteristics, ;

(v) public use, ;

(vi) recreational use, ;

(vii) aesthetic values,

- (viii) cultural values; ;
- (ix) surrounding land use; ;
- (x) zoning; ;
- (xi) planning information; ;
- (xii) weeds; ;
- (xiii) floodplain information; ;
- (xiv) water resources; ;
- (xv) fisheries; ;
- (xvi) wetlands; ; and
- (xvii) riparian characteristics;

(3)(b) through (3)(f) remain the same.

(4) Before acquiring any interest in land, the department and/or board shall conduct a due-diligence review as follows:

(a) ~~conduct or review a current appraisal compliant with the Uniform Appraisal Standards for Federal Land Acquisition of the tract to determine fair market value by using comparable sales for like properties; the department shall contract with a Montana-licensed certified general appraiser to appraise the parcel under consideration for acquisition. The department will review or contract the review of the appraisal conducted by the contract appraiser. The appraisal must follow the department's current scope of work and the supplemental appraisal instructions for the property. A copy of the appraisal and review shall be provided to the board and department. The appraisal will be reviewed and/or updated one year from the date of the appraisal;~~

(4)(b) remains the same.

(c) if necessary, require a survey of the tract; and

(d) the seller shall take the necessary steps to cure defects or remove encumbrances or uses of record or not of record, as requested by the department; and

~~(d)~~ (e) determine any limiting factors for future uses or development of the real property or the presence of toxic or hazardous materials. This may include, but is not limited to:

(i) phase I assessments, such as searches of government agency records and chain-of-title searches for evidence of property history and regulatory compliance, a review of permit applications, environmental health records, environmental compliance data, and other relevant information available from federal and state administrative agencies, discussions with former property owners and employees, and preliminary site visits;

(ii) phase II assessments, such as sampling of soils, water, and structural materials, well drilling, chemical analysis of samples, geotechnical survey, and a toxicological risk assessment.

(5) remains the same.

AUTH: 77-2-364, MCA

IMP: 77-2-364, MCA

REASONABLE NECESSITY: These rule amendments are reasonably necessary because Chapter 396 of the Laws of Montana, 2007 lengthened the accounting period

for estimating the rate of return upon forested lands. Chapter 456 of the Laws of Montana, 2007, requires that all parcels under consideration for sale, exchange, or acquisition be appraised by a Montana-licensed, certified appraiser. These amendments also correct grammar and formatting errors.

4. The department proposes to repeal the following rule:

~~36.25.806 REQUIREMENTS FOR LAND BANKING EARNEST MONEY DEPOSIT~~ (1) ~~The lessee who nominated the parcel shall submit earnest money in the sum of \$1,000 within 30 days of receiving notice from the department that the parcel is available for sale.~~
(2) ~~If the lessee does not submit earnest money within 30 days of notice of availability for sale, the department shall remove the parcel from nomination unless co-nominated by the board or the department.~~
(3) ~~Board and department nominated parcels do not require \$1,000 earnest money. (History: 77-1-204, 77-2-308, and 77-2-362, MCA; IMP, 77-2-328 and 77-2-363, MCA; NEW, 2004 MAR p. 2399, Eff. 10/8/04.)~~

AUTH: 77-1-204, 77-2-308, 77-2-328, MCA
IMP: 77-2-328, 77-2-363, MCA

REASONABLE NECESSITY: This rule repeal is reasonably necessary because Chapter 396 of the Laws of Montana, 2007 no longer requires an earnest money deposit.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment in writing to Emily Cooper, 1625 11th Avenue, Helena, MT 59620; telephone (406) 444-4165. Comments must be received no later than 5:00 p.m. on April 16, 2008

6. Jeanne Holmgren, Department of Natural Resources and Conservation, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Notice of Proposed Amendment is available through the department's site on the World Wide Web at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of this Notice of Public Hearing on Proposed Amendment conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered.

8. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources or a

combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be sent or delivered to the contact person in (5) above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The bill sponsor was notified by regular mail on February 4, 2008.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton
MARY SEXTON
Director
Natural Resources and Conservation

/s/ Tommy H. Butler
TOMMY H. BUTLER
Rule Reviewer

Certified to the Secretary of State February 4, 2008.